

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA	:	DATE FILED:
v.	:	CRIMINAL NUMBER
CHARLES LEIBER JEFFREY P. DUBIN	:	VIOLATIONS: 18 U.S.C. § 371 (conspiracy to pay kickbacks for Medicare referrals - 1 count) 42 U.S.C. § 1320a 7b(b)(2)(B) (kickbacks for Medicare referrals - 2 counts) Notice of additional factors

INDICTMENT

COUNT ONE

THE GRAND JURY CHARGES THAT:

At all times material to this indictment:

THE MEDICARE PROGRAM

1. The Department of Health and Human Services (HHS) was a Department of the United States government with responsibilities under federal law for the funding, administration and supervision of certain health care programs including the "Medicare Program."
2. The Medicare Program was designed to provide medical services, medical equipment and supplies to aged, blind and totally disabled individuals (beneficiaries) who qualified under the Social Security Act.
3. The Medicare Part B Program was a federally-funded medical insurance program which provided Medicare insurance benefits to beneficiaries for certain non-hospital services, including reimbursement for durable medical equipment (DME) and supplies provided

to eligible beneficiaries.

4. By law and regulation, providers who billed Medicare for goods and services were not permitted to pay kickbacks or fees to individuals or companies in exchange for the referral of business.

THE TRICARE PROGRAM

5. The Department of Defense (DOD), a department of the United States government, was responsible for the administration of the Tricare Program.

6. The Tricare Program paid for hospital services, medical services, home health care, durable medical equipment and supplies and other services to civilian dependants of military personnel and retired members of the military who qualified for participation in the program. The United States government provided the majority of the funding of the Tricare Program.

7. By law and regulation, providers who billed Tricare for goods and services were not permitted to pay kickbacks or fees to individuals or companies in exchange for the referral of business.

DEFENDANTS AND OTHER COMPANIES AND INDIVIDUALS

8. C & H Medical Supply Inc. ("C & H Medical"), located at 1614 Old York Road, Abington, Pennsylvania, was a durable medical equipment supplier which was authorized to bill Medicare and Tricare.

9. Defendant CHARLES LEIBER was the president of C & H Medical.

10. Defendant JEFFREY P. DUBIN was a sales representative for C & H Medical.

11. Chosen Care, located in Bensalem, Pennsylvania, was an undercover home health agency run by federal law enforcement special agents.

CONSPIRACY

12. From on or about May 9, 2000, until on or about December 8, 2000, in the Eastern District of Pennsylvania and elsewhere, defendants

CHARLES LEIBER and JEFFREY P. DUBIN

conspired and agreed to commit an offense against the United States, that is, to knowingly and willfully offer, pay and cause to be offered and paid remuneration, that is, kickbacks and bribes, to induce the purchasing, leasing, ordering, and arranging for and recommending the purchasing, leasing, and ordering from companies of items of medical equipment for which payment was made in whole and in part under Medicare and Tricare, in violation of Title 42, United States Code, Section 1320a-7b(b)(2)(B).

MANNER AND MEANS

It was a part of the conspiracy that at various times:

13. Defendants CHARLES LEIBER and JEFFREY P. DUBIN caused C & H Medical to sell, rent or lease medical equipment to “patients” of Chosen Care, the undercover company.

14. Defendants CHARLES LEIBER and JEFFREY P. DUBIN agreed to pay kickbacks equal to 40 percent of the profits from any Medicare and Tricare business to the undercover manager of Chosen Care in exchange for the referral of that business to C & H Medical.

15. Defendants CHARLES LEIBER and JEFFREY P. DUBIN disguised kickback payments as “commission” to the “wife” of the undercover agent who was the manager of Chosen Care, despite the fact that the “wife” did no work for C & H Medical.

OVERT ACTS

In furtherance of this conspiracy the following overt acts, among others, were committed in the Eastern District of Pennsylvania and elsewhere:

1. On or about June 9, 2000, defendant JEFFREY P. DUBIN met with the undercover manager of Chosen Care, the undercover company, at the offices of Chosen Care in Bensalem, Pennsylvania, and discussed obtaining referrals of medical equipment business to C & H Medical in exchange for kickbacks to the undercover manager.

2. On or about June 10, 2000, defendants CHARLES LEIBER and JEFFREY P. DUBIN met at a restaurant with the undercover manager of Chosen Care and discussed a 60/40 split of the profits from business the undercover manager referred to C & H Medical. Defendant CHARLES LEIBER suggested putting the undercover manager’s “wife” on the C & H Medical payroll to disguise the kickback as commission payments, and assured the undercover manager that the undercover manager’s “wife” would not have to do any work.

3. On or about June 20, 2000, defendant JEFFREY P. DUBIN met with the undercover manager of Chosen Care and again suggested the possibility of using the undercover manager’s “wife” to disguise the kickbacks.

4. On or about July 19, 2000, defendants CHARLES LEIBER and JEFFREY P. DUBIN met with the undercover manager of Chosen Care and another law enforcement agent, who was acting as the undercover manager’s “wife,” to discuss the 60/40 split and to decide how

the money would be paid. Defendant JEFFREY P. DUBIN explained that the “wife” of the undercover manager of Chosen Care would be an employee of C & H Medical, but would not have to do any work for the money.

5. On or about July 26, 2000, defendant JEFFREY P. DUBIN faxed the undercover manager of Chosen Care an application for employment at C & H Medical for his “wife.”

6. On or about July 27, 2000, during a telephone conversation, defendant JEFFREY P. DUBIN told the “wife” of the undercover manager of Chosen Care to put “commission” in the salary block on the C & H Medical employment application.

7. On or about July 27, 2000, at the C & H Medical offices in Abington, Chosen Care’s undercover manager’s “wife” met with defendants CHARLES LEIBER and JEFFREY P. DUBIN and provided defendant CHARLES LEIBER with her completed employment application and a post office box which could be used to receive checks. Defendant CHARLES LEIBER told her that “I’m just trying to cover ourselves. They have all these laws about kickbacks. I don’t need the government to know my name.”

8. On or about August 16, 2000, during a telephone conversation, defendant JEFFREY P. DUBIN told the undercover manager of Chosen Care that every order signed for by an undercover doctor associated with Chosen Care would be credited to undercover manager’s “wife.”

9. On or about October 18, 2000, at the Chosen Care office in Bensalem, defendant JEFFREY P. DUBIN showed the undercover manager of Chosen Care paperwork which indicated that C & H had received payments from Medicare for Chosen Care’s business.

Defendant JEFFREY P. DUBIN showed the undercover manager that 40 percent of the profits were going to the “wife” of the undercover manager. Defendant JEFFREY P. DUBIN then gave the undercover manager a check payable to the undercover manager’s “wife” for \$1,688.25.

10. On or about December 4, 2000, defendant JEFFREY P. DUBIN told the undercover manager of Chosen Care that C & H Medical had been paid by Medicare for business referred to C & H Medical by the undercover manager, but that C & H Medical was having difficulty obtaining Tricare payments.

11. On or about December 8, 2000, at the Chosen Care office in Bensalem, defendant JEFFREY P. DUBIN delivered a check in the amount of \$774 to the undercover manager of Chosen Care in an envelope addressed to the undercover manager’s “wife.”

All in violation of Title 18, United States Code, Section 371.

COUNT TWO

THE GRAND JURY FURTHER CHARGES THAT:

1. Paragraphs 1 through 11 and 13 through 15 of Count One are incorporated here.
2. On or about October 18, 2000, in the Eastern District of Pennsylvania,
defendants

**CHARLES LEIBER and
JEFFREY P. DUBIN**

knowingly and willfully offered to pay and paid remuneration (including kickbacks and bribes) directly and indirectly, overtly and covertly, in cash and in kind to a person known to the grand jury to induce that person to purchase, lease, order, and arrange for and recommend the purchasing, leasing, and ordering from C & H Medical of goods, services and items for which payment may be made in whole and in part under Medicare.

In violation of Title 42, United States Code, Section 1320a-7b(b)(2)(B).

COUNT THREE

THE GRAND JURY FURTHER CHARGES THAT:

1. Paragraphs 1 through 11 and 13 through 15 of Count One are incorporated here.
2. On or about December 8, 2000, in the Eastern District of Pennsylvania,
defendants

**CHARLES LEIBER and
JEFFREY P. DUBIN**

knowingly and willfully offered to pay and paid remuneration (including kickbacks and bribes) directly and indirectly, overtly and covertly, in cash and in kind to a person known to the grand jury to induce that person to purchase, lease, order, and arrange for and recommend the purchasing, leasing, and ordering from C & H Medical of goods, services and items for which payment may be made in whole and in part under Medicare.

In violation of Title 42, United States Code, Section 1320a-7b(b)(2)(B).

NOTICE OF ADDITIONAL FACTORS

THE GRAND JURY FURTHER CHARGES THAT:

1. In committing the offense charged in Count One of this indictment, defendants CHARLES LEIBER and JEFFREY P. DUBIN committed an offense in which the value of the kickback exceeded \$2,000 but did not exceed \$5,000, as set out in U.S.S.G. § 2B4.1(b)(1).

2. In committing the offenses charged in Counts One through Three of this indictment, defendant CHARLES LEIBER was an organizer, leader, manager or supervisor as set out in U.S.S.G. §3B1.1(c).

A TRUE BILL:

GRAND JURY FOREPERSON

**PATRICK L. MEEHAN
UNITED STATES ATTORNEY**